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Joint Committee on Finance *100th ANNIVERSARY 1911 - 2011*

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative Robin Vos

Date: March 7, 2011

Re: DHS Report to JFC

Attached is a report on fraud prevention in the FoodShare program from the Department of Health Services at the request of the Joint Committee on Finance.

This report is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

AD:RV:jm



State of Wisconsin
Department of Health Services

Scott Walker, Governor
Dennis G. Smith, Secretary

March 7, 2011

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MAR 07 2011

BY: Jt. Finance

The Honorable Alberta Darling
Joint Committee on Finance, Co-Chair
State Capitol, Room 317 East
Madison, WI 53702

The Honorable Robin Vos
Joint Committee on Finance, Co-Chair
State Capitol, Room 309 East
Madison, WI 53702

Dear Senator Darling and Representative Vos:

The enclosed report is submitted at the request of the Joint Committee on Finance related to fraud prevention in the FoodShare Program. This report:

- a. Describes methods by which FoodShare recipients commit fraud to receive benefits;
- b. Discusses proposals to change state law and DHS policy and practices that would reduce opportunities for FoodShare recipients to commit such fraud; and
- c. Discusses current state and local enforcement of FoodShare fraud prevention, including available resources state and counties have to investigate and prosecute allegations of fraud in the program, and current incentives for state and counties to investigate and prosecute allegations of fraud.

FoodShare Wisconsin was created to help reduce hunger and to improve nutrition and health. The FoodShare Program helps people with limited money purchase the food they need. Approximately 13% of the 5.6 million citizens in Wisconsin receive FoodShare benefits totaling just over \$90 million per month.

Thank you for the opportunity to provide you with information regarding the FoodShare program as well as strategies the Department of Health Services is using to identify, investigate and most importantly prevent fraudulent activity in the FoodShare Program.

Sincerely,

Dennis G. Smith
Secretary

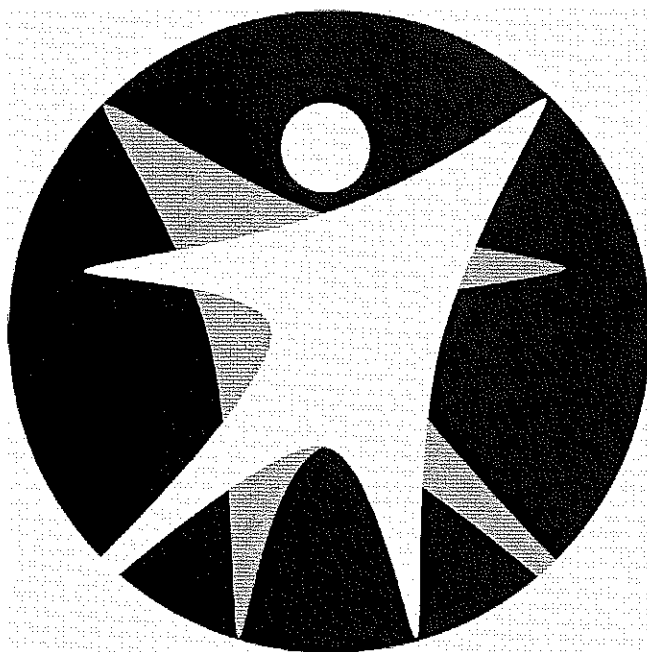
Enclosure

Report to the Legislature

FoodShare Program

Preventing Fraud in the FoodShare Program

February 10, 2011



Department of Health Services
Division of Health Care Access and Accountability

Introduction

The Legislature directed the Department of Health Services (DHS) to submit a report to the Joint Committee on Finance by February 1, 2011 addressing the following items related to fraud in the FoodShare Program (FSP):

- A description of methods by which some FoodShare recipients commit fraud to receive benefits.
- A discussion of current state and local agency enforcement of FSP fraud prevention, including what resources are available to investigate and prosecute allegations of fraud in the program as well as current incentives for state and local agencies to investigate and prosecute allegations of fraud in the program.
- Proposals to change state/federal law or DHS policy and practices that would reduce opportunities for FoodShare recipients to commit such fraud.

In order to provide some context for the items, this report begins with a brief overview of the FSP and history of the recipient fraud program.

FoodShare Program Overview

FoodShare is the name for Wisconsin's version of the Supplemental Nutritional Assistance Program (SNAP) administered by the United States Department of Agriculture, Food and Nutrition Service (FNS), formerly called Food Stamps. FoodShare is a benefit that allows low-income individuals to purchase food at participating retailers across the country through our Electronics Benefit Transfer (EBT) card (often referred to as the QUEST card). The administration of the EBT program is through a contract with eFunds FIS Government Solutions. This contractor is responsible for EBT card issuance and maintenance, maintaining both the recipient and retailer customer services lines, and maintaining the banking and settlement of account information for the program.

Individuals access FSP benefits by applying through their county or tribal agency or the statewide agency, the Enrollment Services Center (ESC). Agency staff determines if the individual meets the eligibility criteria established through program guidelines and issues benefits through Wisconsin's eligibility system the Client Assistance for Re-Employment and Economic Support (CARES). A module within CARES allows staff to initiate and track fraud investigation and referrals.

In November 2010, over 770,000 individuals, or 13% of the 5.6 million people in Wisconsin, received FSP benefits, compared to about 400,000 individuals that received FSP benefits in July of 2007. The dramatic increase in the number of Wisconsin citizens receiving these benefits can be traced to several reasons:

- The national economic downturn beginning in September 2008.
- Policy and process changes made to streamline the program.

- Making it easier for people to apply for the benefits via online and mail-in applications instead of applying in-person at a local agency.

The United States Department of Agriculture, Food and Nutrition Service (FNS), is responsible for:

- Setting and communicating federal program rules based upon federal law and regulations, although some implementation options are allowed to states.
- 100% funding of FoodShare benefits.
- 50% of FSP administrative costs.
- Oversight of FSP retailers, including retailer program integrity.

DHS is responsible for:

- Setting and communicating policy and process for the FSP within the parameters of federal law/rules and state law, including program integrity policies and procedures.
- Maintaining the eligibility systems (CARES, ACCESS, Electronic Case File) to administer the program
- Supervision of the administration of program eligibility and enrollment by county and tribal agencies.
- Administration of the FSP for Milwaukee County (Milwaukee Enrollment Services or Miles) and for adults without dependent children at the Enrollment Services Center (ESC).

Local County and Tribal Agencies (including Miles and ESC) are responsible for:

- Day-to-day administration of the FSP, including program integrity duties.
- Determining eligibility based upon state policy and process rules using state systems.
- Advising DHS on development of policy, process and systems through the Income Maintenance Advisory Committee (IMAC).

Payment error rate data allows the Department to estimate the potential for overpayments and underpayments in a program. A monthly random sample of cases is drawn by DHS quality control staff from all active cases in the state. Cases are reviewed for eligibility and payment accuracy for a specific month. The ratio of issuance dollars in error to the number of dollars reviewed constitutes the state error rate. FNS pulls a sub-sample of the state sample to validate our case findings. The data below shows that while the caseload for the FSP has increased steadily over the past several years, the payment error rate for the programs has decreased.

Program Year	FSP Benefit Error Rate	National Average Error Rate	Average FSP Recipients in WI
2005	5.61%	5.84%	352,725
2006	6.17%	5.99%	372,308
2007	5.90%	5.64%	388,399
2008	7.38%	5.01%	444,558
2009	1.11%	4.36%	595,025
2010	1.93%	3.89%	743,836

FoodShare Recipient Fraud Overview

The Fraud Prevention and Investigation Program (FPIP) is based on Chapter 49 of the Wisconsin Statutes. It has been administered in all geographic areas of the state since January 1, 1998. The program consists of fraud prevention, fraud investigation, and fraud overpayment collection activities of the FoodShare, Wisconsin Medicaid, and BadgerCare Plus programs.

As part of the responsibilities for ensuring the integrity of the benefit programs they administer, Income Maintenance (IM) agencies must operate recipient fraud prevention programs to identify and prevent fraud or error from occurring in their programs. The agency determining eligibility for a particular benefit program is responsible for fraud prevention activities in that program.

Provider fraud for the Wisconsin Medicaid and BadgerCare Plus programs is administered by the Bureau of Program Integrity (BPI) in the Division of Health Care Access and Accountability. Last year BPI recovered \$13 million in payment errors to providers. Vendor/retailer fraud for the FSP is administered by FNS in cooperation with DHS.

In 1990, the Governor ordered the creation of an Office of Inspector General (OIG) for welfare fraud in the Department of Health and Social Services (now DHS). In 1998 the OIG, along with other Public Assistance Programs, was transferred from DHS to the Department of Workforce Development (DWD). Wisconsin Works (W-2) replaced AFDC as the cash assistance program for families as a result of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).

In 2002 the OIG was eliminated and the staff was transferred back to DHS, along with the FSP. A memorandum of understanding was created between DWD and DHS for DHS to administer a recipient fraud prevention program for the W-2, Child Care, FSP, Wisconsin Medicaid and BadgerCare Plus program, with DWD providing funding for Child Care and W-2 activities.

In 2006, based on a request from IMAC, DHS formed an ad hoc subcommittee with local agency representatives to re-evaluate how the FPIP is administered in Wisconsin and make recommendations for program improvement.

The subcommittee recommended a model focused on prevention, using Fraud Prevention Investigation (FPI) staff dedicated to provide all investigation activities for multiple agencies under a single funding source, utilizing local agency and/or private contracted investigators.

The FPI model was piloted in two project areas in 2007 and in five project areas (25 agencies) in 2008 and 2009. Allocations were based on caseload size. The pilot identified several advantages of this model:

- Availability of trained professional investigator for all agencies.
- Consistent entry of fraud prevention data in CARES.
- Increased revenue from benefit recovery retention.

Funding for recipient fraud activities within DHS has been comprised of any amount of benefits recovered from recipients in the FoodShare and Medicaid programs and an additional \$500,000

in GPR. All these funds were eligible to be matched with federal funds for a total estimated budget for both programs of approximately \$1.1 million to cover state staff costs and allocations to the agencies.

In state fiscal year 2009, the Department of Children and Families (DCF) was created as part of the 2009-11 biennial budget, and the W-2 and Child Care programs moved to DCF. Due to budget constraints and an increased focus on improving the accuracy of the eligibility determinations made prior to issuance of benefits, the GPR available for fraud prevention was reduced beginning in SFY 2010 by \$500,000. As a result the total fraud prevention funding allocated to counties and tribes for FoodShare, Medicaid, and Child Care activities for CY 2009 was approximately \$700,000, a reduction of \$1.1 million from the previous year. For CY 2010 agencies were notified that no funding was available from DHS. It is also at this time that DHS and DCF agreed to administer their fraud prevention activities within their own departments.

How FoodShare Recipients Commit Fraud

Eligibility Fraud

Fraud is committed when an individual, with knowledge and purpose, makes false statements, suppresses facts or gives information which misrepresents the true circumstances in order to remain eligible for benefits under Chapter 49 of the Wisconsin Statute. The most common methods that FSP recipients (or recipients of any public assistance program) use to commit fraud are all related to failure to report required information. Local agency fraud investigations show that most occurrences of fraud are related to not reporting correct household composition (e.g. not reporting a boyfriend in the home or not reporting that a child has left the household) and not reporting income (e.g. a new job that puts the household above income eligibility limits).

One way to identify possibly sources for fraud is through the types of FSP benefit payment errors. Three types of FSP benefit payment errors can occur:

- Agency (Worker or System) errors
- Unintentional client errors
- Intentional client misstatements or omissions (fraud)

While the data below summarizes all client error (unintentional and intentional), it provides a glimpse of the types of errors that occur in the FSP. Overall, client error has comprised only 22% of all errors from 2005 through 2010.

Error Element	Number of Cases in Error	Total Benefits in Error	Percentage
Household Composition	12	\$1,132	10%
Shelter Deduction	32	\$1,900	16%
Wages and Salaries	43	\$6,326	54%
Unearned Income	22	\$2,363	18%

Table 1. FoodShare Client Error Elements, 2005 - 2010

Another way to gauge the incidence of fraud is to look at the claims established for overpayments for the past several years. This chart clearly shows that the majority of client

related errors resulting in an overpayment are unintentional. Benefits provided in error as a result of unintentional errors can still be recovered.

Error Type	2008		2009		2010	
	Claims	Amount	Claims	Amount	Claims	Amount
Fraud	95	\$ 84,880.00	87	\$ 103,631.77	36	\$ 69,670.74
Client Error	2,413	\$2,424,936.99	1,632	\$1,541,380.65	1,317	\$1,430,215.78
State/Agency Error	1,502	\$ 465,039.61	1,243	\$ 448,455.77	902	\$ 367,432.60

Trafficking

Trafficking is the buying or selling of FoodShare Program benefits for cash or something other than food. Trafficking can occur through the recipient or retailer, but only recipient fraud is addressed by the state. Trafficking is difficult to identify, but typically occurs when a recipient sells their EBT card to someone outside of a grocery store. The recipient either provides the purchasing individual with the EBT card and PIN or purchases food for the individual.

DHS does not have information on how prevalent recipient trafficking of FSP benefits, as there are not currently sufficient resources to support these efforts. Local agencies that are the most successful in addressing this issue have good relationships with their local retailers.

Current DHS Fraud Prevention and Investigation Program

The primary focus of any model for DHS is fraud prevention through pre-certification investigations. Pre-certification investigations involve the verification of error-prone criteria (i.e., residency, household composition, unreported income, etc.) in a short timeframe before the agency certifies a case for benefits to be paid. The incentive for local agencies to investigate fraud in the FSP currently is the 15% retention of any money repaid by the offender that the agency can use for other program activities (DHS retains 5% of any amount collected, and the rest is returned to FNS). DHS also helps local agencies receive federal matching funds for fraud-related activities under their Income Maintenance contract.

Several data matches are built into CARES and are used during the application process and throughout the life of a case. Data matches provide a strong starting point for eligibility determination and can prevent potential fraud from occurring before the case is certified. These data matches include information regarding recent employment, Social Security and Unemployment Compensation benefits.

DHS has one filled FTE and vacant position dedicated to recipient fraud for the Wisconsin Medicaid, BadgerCare Plus, and FoodShare programs. DHS fraud prevention staff functions include:

- Contract administration
- Policy analysis and program development
- Budget and funding/cost benefit analysis
- Federal/State/Local activity data reporting
- Automated systems management

- Local Agency program monitoring/corrective action
- Local Agency consulting and training
- Fraud referrals/complaints

Currently when FSP fraud is determined to have occurred agencies are instructed to take the following actions in this order:

1. Correct the case for the next possible payment/benefit month
2. Establish a claim for any overpaid benefits
3. Request an administrative disqualification hearing (ADH) when there is sufficient documentary evidence that a person or group has committed an intentional program violation (IPV). If an individual is determined to have committed an IPV, they will be ineligible for FoodShare benefits for:
 - a. 12 months with the first offense
 - b. 24 months upon the second offense.
 - c. Permanently upon the third offense.
4. Enlist and assist district attorneys to prosecute the most egregious cases of fraud.

When a case worker is alerted to potentially fraudulent activity or the presence of an overpayment, he or she is responsible for identifying the problem and correcting the case. However, the current environment of high caseloads and limited staff resources makes it difficult for many agencies to process overpayment and/or pursue an ADH.

DHS recently received bonus funding from FNS as the result of being one of five states in the country with the most improved participation in the FSP for FFY 2008. DHS has earmarked \$325,000 of this bonus funding to enhance local and statewide recipient fraud prevention activities for the FoodShare, Wisconsin Medicaid, and BadgerCare Plus programs. Federal match of this investment brings the total funding available for SFY 2011 to \$750,000.

In August of 2010 the Special Committee on Public Assistance Program Integrity was directed to study current laws, rules, and policies relating to fraud prevention, detection, investigation, and prosecution, and the current fraud penalty structure, in public assistance programs under Chapter 49 of state statutes. The Committee has developed recommendations for current fraud provisions in Chapter 49 to be recodified, streamlined, and made uniform throughout the chapter and discussed what levels of funding are necessary for fraud prevention, detection, investigation, and enforcement at the state and local level. DHS staff has provided background materials as well as recommendations for statutory changes to Chapter 49 to meet the Committee's goals.

While the Special Committee continues to meet and discuss the effectiveness of current investigatory and enforcement mechanisms and whether current penalties and associated consequences of a finding of public assistance fraud achieve the goals of fraud prevention and deterrence, DHS has moved forward with a new and improved fraud prevention and investigation model designed to maximize performance with the limited funding available.

DHS released Administrator's Memo 10-02 on November 5, 2010 to provide local agencies with information regarding DHS fraud program allocations for CY 2011, and well as program

guidance. The program DHS is offering agencies builds on the FPI model piloted from 2007-2009. Agencies were given the option to form or lead a consortium, join a contract that DHS will administer to provide fraud prevention services for the Enrollment Services Center and Milwaukee Enrollment Services (state customer service agencies), or to administer their own program with no DHS funding. The Fraud Prevention and Investigation Program (FPIP) model is different from past models in several ways:

- One single funding source.
- Dedicated positions based on available funding responsible for fraud referral training, gatekeeper functions, data entry and investigations.
- Consistent fraud investigation services for the entire state, rather than 77 different models operating independently.
- Under the plan agreement with the participating agencies, cost effectiveness is expected to be at a 5/1 ratio, so for every \$1 spent to administer the pilot, agencies are expected to save at least \$5 in public assistance benefits.
- Additional incentives not available before:
 - A \$1000 credit for each intentional program violation established that counts toward an agency's cost benefit ratio.
 - The incentive to run a cost effective program or risk the loss of funding or control of your agency's program in the next year if you don't meet performance standards.

Four consortia have been formed state wide comprising 60 local agencies. Four agencies chose to join the state contract, and fourteen agencies chose to independently operate their program with their own funding. Attachment 1 illustrates the agency FPIP configurations for CY 2011. All agencies (including the independents) must meet the same performance measures for the FPI Program. This allows DHS to compare the consortium model with independent operations to further test and enhance our model using best practices from each of them. The FPIP will enhance and blend with existing fraud prevention processes already in place at DHS:

- Use the federal Public Assistance Reporting Information System (PARIS), which matches Wisconsin data with other states and with federal agencies to identify duplicate benefits and unreported federal employment income.
- The Income Maintenance Quality Assurance (IMQA) process requires agencies to review 1% of their most error prone cases each month for payment and/or processing errors so they can correct the case and provide necessary payment accuracy training to staff.

Proposals for Fraud Prevention Program Improvements

While DHS staff continues to review the appropriate statutes for possible changes, overall we believe the way they are currently written allows us the flexibility necessary to administer the program and adapt to changes in program delivery. For example, the statutes currently allow DHS to offer incentives to agencies for establishing claims. If DHS would opt to do claims

establishment centrally in the future the statutes currently allow us to retain the financial incentive for any cases we establish.

DHS is always looking for ways to improve all of our programs, including the FPIP. Proposals for FPIP improvement beyond statute changes include:

- Requesting additional funding to support the FoodShare Program Fraud initiatives. Currently, this effort is funded by the state share of funds recovered from benefits issued in error or from fraudulent statements.
- Considering that national health care reform legislation allows for greater integration across data systems (including IRS tax information for MA eligibility and citizenship and immigration information from the Department of Homeland Security), DHS urges consideration of a legislative recommendation to permit sharing of automated information to assure accurate eligibility determinations. One such match would be to use trusted third party sources that provide current address or wage information. While conducting matches comes at a cost, they prevent errors before they occur, reducing the opportunities for fraud to occur.
- A statewide error prone profile integrated into the eligibility determination system, CARES, to identify potential fraud cases for immediate review.
- Implementing an incentive for local prosecutors for successfully prosecuting public assistance fraud cases. This would require seed money to implement as this could not be absorbed into the current budget.
- Establishing a statewide hotline and enhancing our FPIP website to make it easier to report suspected fraud and provide more educational materials for the general public.
- Client education materials in agency waiting rooms and pop ups in the online application tool, ACCESS. For example, if a person applies but lists no income, ACCESS would ask them how they pay their stated shelter costs without any source of income.
- Taking steps to address increasing reports of FS benefit trafficking. This entails trading benefits for drugs or money at a reduced rate (e.g. selling a card with \$200 dollars worth of benefits for \$100 cash), or selling the EBT card and then cancelling it. DHS will:
 - Use data warehouse reports that will list individuals that have had multiple cards issued during a designated time-frame. Potential abusers will be referred to the appropriate agencies for follow-up. Part of this would be education to ensure they know how to use their benefits, but also to identify instances where fraud may be occurring.
 - Encourage FNS to provide better guidance to states regarding how to help retailers prevent this illegal activity. For example, currently the requirement to present an ID card to a retailer is outside the scope of the State's authority. SNAP

retailer operations are under the authority of FNS and the federal government. The State does not have jurisdiction or authority to enforce such a mandate even if legislation is passed. New Federal legislation went into effect on Friday, June 11 that prohibits the use of an ID card.

- Requesting additional funding in the amount of \$500,000 to procure for a vendor to assist in identifying and obtaining the necessary documentation to prosecute recipient trafficking of benefits. States that have been successful in addressing this issue, have dedicated resources to a type of sting operation at local grocery stores.
- Continued work with the Special Committee on Public Assistance Program Integrity to find innovative ways to prevent fraud from occurring in the first place.

ATTACHMENT 1

